



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FTTC 4-000 3/15/98

March 4, 1998

REPLY TO THE ATTENTION OF:

DRT-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Stephen P. Samuels
Samuels and Northrup Company
Suite 816
180 E. Broad Street
Columbus, Ohio 43215

Re: The Marion Steel Company
Docket No. TSCA-V-C-87-93

Dear Mr. Samuels:

Enclosed please find one of two original copies of a fully executed Consent Agreement and Consent Order (CACO) in resolution of the above case. The originals were filed on February 26, 1998, with the Regional Hearing Clerk.

Please pay the civil penalty in the amount of \$1,000.00 in the manner prescribed in paragraph 11, and reference your check with the number BD054798008 and docket number TSCA-V-C-87-93. Your payment is due on April 3, 1998 (within 30 calendar days of the date of this letter).

Thank you for your cooperation in resolving this matter.

Sincerely,

John Love
Pesticides and Toxics Enforcement Section

Enclosure

cc: Regional Hearing Clerk/R-19J, (w/CACO)
Honorable Edward J. Kuhlman, ALJ/1900 (w/CACO)
Office of Regional Counsel/Jeffery M. Trevino/C-14J, (w/CACO)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

BEFORE THE ADMINISTRATOR

'98 FEB 26 AIO :04

IN THE MATTER OF)

THE MARION STEEL COMPANY)
DOCKET NO. TSCA-V-C-87-93

RESPONDENT)

CONSENT AGREEMENT AND CONSENT ORDER

CONSENT AGREEMENT

Complainant, the Director, Waste Pesticides and Toxics Division, Region 5, United States Environmental Protection Agency, ("U.S. EPA"), having filed the Complaint for this civil administrative action against the Respondent, the Marion Steel Company, Marion, Ohio; and,

The Parties having agreed the resolution of this action is in the public interest and the entry of this Consent Agreement and Consent Order ("CACO") without further litigation is the most appropriate means of resolving this action;

NOW, THEREFORE, based upon the proceedings to date, and without further adjudication of any fact or law, and upon the consent and agreement of the Parties, it is hereby Ordered as follows:

I. PRELIMINARY STATEMENT

1. On September 24, 1993, Complainant initiated this action for the assessment of a civil penalty pursuant to the Toxic Substances Control Act, 15 U.S.C. §§ 2601 to 2692, ("TSCA"), and Sections 22.01(a)(1) and 22.13 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. §§ 22.01(a)(1) and 22.13.
2. The Complaint alleged Respondent violated Section 15 of TSCA, 15 U.S.C.

§ 2614, and the regulations at 40 C.F.R. §§ 761.180(a), 761.30(a)(1)(viii), and 761.205(a)(2), and proposed a civil penalty of \$62,500.00.

3. On October 13, 1993, Respondent filed its Answer to the Complaint, and requested a hearing pursuant to Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A).

4. On October 16, 1997, Complainant withdrew Count IV of the Complaint reducing the proposed civil penalty for this action from \$62,500.00 to \$53,500.00.

5. The terms and conditions of this CACO shall apply to and be binding upon the parties, their officers, directors, servants, employees, agents, successors, and assigns, including but not limited to, subsequent purchasers.

6. For the purposes of this proceeding only, Respondent stipulates Complainant has jurisdiction over the subject matter alleged in the Complaint and the Complaint states a claim upon which relief can be granted.

7. Nothing in this CACO shall constitute an admission by Respondent of any factual or legal issues set forth herein, or in the Complaint.

8. Respondent waives its right to appeal or otherwise challenge this CACO.

II. TERMS AND CONDITIONS

9. Respondent certifies that, to the best of its knowledge and belief, it is in compliance with the statutory provisions of TSCA and the regulations at 40 C.F.R. Part 761.

10. Complainant has determined the appropriate civil penalty to resolve this action is \$1,000.00 pursuant to Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), and Complainant's Polychlorinated Biphenyls ("PCB") Penalty Policy, dated April 9, 1990. Respondent believes the appropriate civil penalty is \$00.00.

11. Respondent shall pay to the "Treasurer, United States of America," a civil penalty in the amount of \$1,000.00 within thirty (30) days of the effective date of this CACO.

Respondent shall pay the civil penalty by certified or cashier's check payable to the order of the "Treasurer, United States of America." Respondent shall designate on the face of its check the name, docket number, and BD# of this action. Respondent shall mail its check by U.S. Mail to:

Region 5
U.S. Environmental Protection Agency
P.O. Box 70753
Chicago, IL 60673

Respondent shall mail simultaneously to the following people copies of its check:

Regional Hearing Clerk
Planning and Management Division
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (R-19J)
Chicago, IL 60604-3590

John Love
Pesticides and Toxics Enforcement Section
Pesticides and Toxics Branch
Waste, Pesticides, and Toxics Division
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (DRT-8J)
Chicago, IL 60604-3590;

Jeffery M. Trevino
Associate Regional Counsel
Office of Regional Counsel
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604-3590

12. The civil penalty specified in Paragraphs ten (10) and eleven (11) is a civil penalty

assessed by Complainant and shall not be deductible for purposes of federal taxes.

13. Respondent shall expend at least \$154,500.00 to complete the following Supplemental Environmental Project ("SEP")

- A. Respondent shall discontinue its use of, and properly dispose of, the five (5) remaining PCB Transformers at its facility not later than three years after the effective date of this CACO to provide further protection to human health and the environment.
- B. Respondent hereby certifies it is not required to perform this SEP by any federal, state, county, or municipal, statute, regulation, law, or ordinance, nor is it required to perform this SEP by agreement, grant, or as injunctive relief in this or any other action, nor has it received for this SEP, nor is it presently negotiating to receive for this SEP, credit in any other action.
- C. Respondent shall submit to Complainant an SEP Compliance Report not later than three years and sixty (60) days after the effective date of this CACO. It shall contain the following information:
 - a. a detailed description of its completion of this SEP;
 - b. a description of any problems it encountered and the solutions it implemented to complete this SEP;
 - c. itemized costs, documented by copies of purchase orders and receipts or canceled checks, it incurred to complete this SEP;
 - d. certification it completed this SEP pursuant to this paragraph;
 - e. signature and certification, by its officers, under penalty of law, that its information is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law I have examined and am familiar with the information submitted in this document and all attachments, and that based upon my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

- D. Respondent shall submit its SEP Compliance Report by first class U.S. Mail to:

John Love
Pesticides and Toxics Enforcement Section
Pesticides and Toxics Branch
Waste, Pesticides, and Toxics Division
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (DRT-8J)
Chicago, IL 60604-3590.

- E. Respondent shall allow Complainant reasonable access to its facility to inspect the completion of this SEP.
- F. Within sixty (60) days of receiving the SEP Compliance Report, Complainant shall determine whether Respondent has completed this SEP as required by this Paragraph, and shall provide Respondent written notice of its determination.

14. If Respondent fails to expend at least \$154,500.00 to complete its SEP, or fails to complete satisfactorily its SEP, pursuant to Paragraph 13(A) of this CACO, Respondent shall be liable for stipulated penalties according to the following provisions.

- A. Except as provided in paragraph B, if Respondent fails to expend at least \$154,500.00 to complete its SEP pursuant to Paragraph 13 of this CACO, it shall pay to the United States a stipulated penalty in an amount calculated according to the following formula:

Stipulated Penalty = (\$154,500.00 - SEP Costs Incurred) divided by 3.

- B. If Respondent fails to complete satisfactorily its SEP, but (i) made good faith and timely efforts to complete its SEP; and (ii) certifies, with supporting documentation, that it expended at least \$139,050.00 to complete its SEP, it shall not pay a stipulated penalty.
- C. If Respondent fails to submit timely to Complainant its SEP Compliance Report pursuant to Paragraph 13(C), it shall pay a stipulated penalty of \$100.00 for each day it is late until it is submitted.
- D. Respondent shall pay to the "Treasurer, United States of America," stipulated penalties within fifteen (15) day of its receipt of written demand by Complainant. Respondent shall pay stipulated penalties by certified or cashier's check payable to the order of the "Treasurer, United States of America." Respondent shall designate on the face of its check the name, docket number, and BD# of this action. Respondent shall mail its check by U.S. Mail to:

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Chicago, IL 60673.

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Chicago, IL 60604-3590;

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Pesticides and Toxics Enforcement Section
Pesticides and Toxics Branch
Waste, Pesticides, and Toxics Division
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (DRT-8J)
Chicago, IL 60604-3590

Jeffery M. Trevino
Associate Regional Counsel
Office of Regional Counsel
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard (C-14J)
Chicago, IL 60604-3590

15. Complainant is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim pursuant to 31 U.S.C. § 3717. Therefore, interest will begin to accrue on a civil or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 4 C.F.R.

§§ 102.13(d) and (e). Respondent shall pay to the "Treasurer, United States of America," interest and penalties within fifteen (15) days of its receipt of written demand by Complainant.

Respondent shall pay interest and penalties by certified or cashier's check payable to the order of the "Treasurer, United States of America." Respondent shall designate on the face of its check the name, docket number, and BD# of this action. Respondent shall mail its check by U.S. Mail to:

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16. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to its SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by U.S. EPA for violations of Section 15 of TSCA, 15 U.S.C. § 2614."

17. This CACO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, county, and municipal, statute, regulation, law, and ordinances, nor shall it be construed to be a ruling upon, or a determination of, any issue related to any federal, state, or local, permit, nor shall it be construed to constitute Complainant's approval of anything installed by Respondent in connection with its SEP under the terms of this CACO.

18. This CACO constitutes a settlement by Complainant of all claims for civil penalties for the violations alleged in the Complaint pursuant to Section 15 of TSCA, 15 U.S.C. § 2614. Nothing in this CACO is intended, nor shall it be construed in any way to resolve any criminal liability of the Respondent. Compliance with this CACO shall not be a defense to any action filed by Complainant against Respondent for alleged violations occurring after September 24, 1993. It is the responsibility of Respondent to comply with such laws and regulations. Respondent expressly denies that it is in any way criminally liable.

19. Each party shall bear its own costs and attorneys fees for this action.

20. Each undersigned representative of the parties to this CACO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CACO and to execute and legally bind that party to the CACO.

21. This CACO constitutes the entire agreement between the parties.

22. This CACO constitutes a Final Order pursuant to Section 16 of TSCA, 15 U.S.C. § 2615.

23. The effective date of this CACO shall be the day it is filed with the Regional Hearing Clerk.

24. This CACO shall terminate when Respondent has satisfied all of the terms and conditions of this CACO.

In the Matter of: The Marion Steel Company, Marion, Ohio.
Docket No. TSCA-V-C-87-93.
Consent Agreement and Consent Order.

THE MARION STEEL COMPANY
RESPONDENT

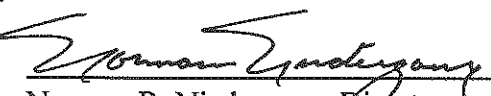


Scott Conway, Vice- President

2/11/98

Date

REGION 5
U.S. ENVIRONMENTAL PROTECTION AGENCY
COMPLAINANT



Norman R. Niedergang, Director
Waste Pesticides and Toxics Division

2/24/98

Date

PAR
2/23/98

In the Matter of: The Marion Steel Company, Marion, Ohio.
Docket No. TSCA-V-C-87-93.
Consent Agreement and Consent Order.

CONSENT ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Consent Order. The Respondent is hereby ordered to comply with all of the terms and conditions of the Consent Agreement upon the filing of this Consent Agreement and Consent Order with the Regional Hearing Clerk.

Mitchell D. Jordan

David A. Ullrich
David A. Ullrich
Acting Regional Administrator
Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

2-25-98

Date

P 140 673 093

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to	Mr. Stephen P. Samuels Samuels and Northrup Company Suite 816 180 E. Broad Street Columbus, Ohio 43215
Street & I	
Post Office	
Postage	\$ 1.01
Certified Fee	1.35
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	4/10
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$ 3.46
Postmark or Date	

PS Form 3800, April 1995

LOVE/DRT-85

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Honorable Edward J. Kuhlmann
Administrative Law Judge (1900)
U.S. EPA - Headquarters
401 M Street, S.W.
Washington, D.C. 20460

4a. Article Number

P 140 673 118

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

3/9/98

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature

PS Form

Receipt

Thank you for using Return Receipt Service.

P 140 673 118

US Postal Service

Receipt for Certified Mail

Honorable Edward J. Kuhlmann

Administrative Law Judge (1900)

U.S. EPA - Headquarters

401 M Street, S.W.

Washington, D.C. 20460

Postage	\$ 1.78
Certified Fee	1.35
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	4/10
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$ 3.23
Postmark or Date	

MAILED 11 MAR 1998

LOVE/DRT-85

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
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2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mr. Stephen P. Samuels
Samuels and Northrup Company
Suite 816
180 E. Broad Street
Columbus, Ohio 43215

4a. Article Number

P 140 673 093

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

MAR 09 1998

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X P. Beazaha

PS Form 3811, December 1994

Domestic Return Receipt

charges for any selected optional services (See front).

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (no extra charge).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article RETURN RECEIPT REQUESTED adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse RESTRICTED DELIVERY on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

PS Form 3800, April 1995 (Reverse)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (no extra charge).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article RETURN RECEIPT REQUESTED adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse RESTRICTED DELIVERY on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

PS Form 3800, April 1995 (Reverse)

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

RECEIVED
MAR 13 1998

PESTICIDES & TOXICS ENFORCEMENT
Waste, Pesticides & Toxics Division
U.S. EPA - REGION 5

• Print your name, address, and ZIP Code in this box •

JOHN LOVE (DRT-8J/ENF.)
U.S. EPA - REGION 5
77 W. JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

JOHN LOVE (DRT-8J/ENF.)
U.S. EPA - REGION 5
77 WEST JACKSON BLVD.
CHICAGO, ILLINOIS 60604-3590

RECEIVED
APR 14 1998

PESTICIDES & TOXICS ENFORCEMENT
Waste, Pesticides & Toxics Division
U.S. EPA - REGION 5